

POINT® Terms and Conditions of Sale and Delivery

Preamble

The Terms and Conditions of Sale and Delivery hereinafter shall apply between the firm POINT-Helmig GmbH (the Vendor) and the Buyers (the Purchasers), insofar as the Purchaser is an entrepreneur as defined by § 14 BGB [Bürgerliches Gesetzbuch - Civil Code]. If the Purchaser is a consumer as defined by § 13 BGB the Terms and Conditions of Sale and Delivery hereinafter shall apply with the exception of items 6. and 11.

1. Offers and formation of contract

Our offers are always non-binding. An order is only deemed as having been accepted when it has been confirmed in writing by us. Divergent terms in any counter confirmations on the part of the Purchaser are subject to our express consent in writing. The same applies to verbal additions, amendments and collateral agreements.

2. Prices

Unless otherwise agreed, prices are stated in EURO and shall be deemed as non-binding, both ex our supplying plant and ex Overath warehouse. Packaging shall be charged at cost price and may not be taken back.

3. Quality

The prices stated apply to trade quality. All goods, for which specific conditions are stipulated, are subject to special agreements.

4. Complaints

See Guarantee Terms and Conditions.

5. Time of delivery

Each individual order or apportionment is subject to the time of delivery being agreed. The apportionment of contracted quantities must be distributed evenly over the completion period and effected in good time, without a special reminder or granting of an extension of time. Otherwise we are entitled to rescind the Contract. In the event of call off or acceptance not being effected in good time by a Purchaser we are entitled to deliver quantities not called off or accepted in good time at a later stage in full or in part and to charge the costs generated as a result thereof to the Purchaser. Should the contracted quantity be exceeded as a result of apportionment by the Purchaser we shall be entitled to charge higher prices for the additional quantity, which correspond to market conditions. Delivery deadlines are only binding when they have been confirmed in writing by us. In the event of default by our firm the Purchaser shall grant a reasonable extension of time. Should the delivery not be effected within the period of this extension of time the Purchaser shall be entitled to rescind the Contract. The right to rescind with respect to a forward transaction remains unaffected. The amount of loss incurred by the Purchaser due to default shall be limited to the value of the goods comprising the delivery.

6. Shipping

In all cases transport shall be effected on the account and at the risk of the recipient. This shall also apply to carriage-free consignments or incorrect deliveries. Additional costs for urgent and express goods shall be subject to an additional invoice. Any attendant costs that may arise shall be borne by the Purchaser.

Also in the case of carriage-free deliveries the Purchaser shall not request reimbursement for costs which they are to pay in addition to a third party. Our firm shall undertake shipping for the Purchaser with due diligence, unless highly specific instructions are issued when an order is placed and confirmed.

7. Terms of payment

Terms of payment shall be set as agreed. Should the agreed payment deadline not be met we reserve the right to claim default interest. A cash account may only be credited when all the payment obligations relating to previous deliveries have been fulfilled.

8. Retention of title

Our firm reserves the right to retain the title to the supplied good until it has been paid for in full and we are not entitled to any claims whatsoever stemming from the business relationship with the Purchaser. Our firm shall also retain the title to the supplied good in the case of further processing. However, the Purchaser is entitled to sell on the supplied good in the due course of business. In the event of the good supplied by us being sold on in an unaltered state or having undergone further processing the Purchaser shall hereby assign their amount receivable stemming from the sale in relation to their customers with all ancillary rights to us until all of our amounts receivable stemming from deliveries of goods have been paid off

In the event of their insolvency the Vendor undertakes, when requested, to advise us of the names of their customers, to whom our goods have been supplied subsequently. We undertake, when requested by the customer, to effect reassignment in so far as the value of the collateral provided to us exceeds our amounts receivable relating to the delivery by more than 20%.

9. Liability

Without prejudice to the provision concerning the guarantee the following shall apply in the event of a breach of duty by the Vendor:

- The Purchaser shall grant the Vendor a reasonable time limit for remedying breach of duty. Only once the time limit has elapsed without achieving a successful outcome the Purchaser is entitled to rescind the Contract or claim compensation.
- The Purchaser may only claim compensation in cases of grossly negligent or deliberate breach of duty by the Vendor.

10. Procurement risk

The Vendor shall not assume any procurement risk whatsoever and nor any warranties, unless an express agreement in writing has been concluded thereon.

11. Place of performance and forum

The place of performance and forum for all claims and legal disputes stemming from the contractual relationship including proceedings pertaining to bills of exchange and summary proceedings solely based on written evidence shall be the Vendor's registered office.

In each and every case, particularly also in the case of international deliveries, the law of the Federal Republic of Germany shall apply.

Guarantee Terms and Conditions

1. The Guarantee Terms and Conditions hereinafter shall apply between the firm, POINT-Helmig GmbH (the Vendor) and the Buyers (Purchasers) for all products delivered thereby as well as all products marketed in future, insofar as the Purchaser is an entrepreneur as defined by § 14 BGB [Bürgerliches Gesetzbuch - Civil Code]. If the Purchaser is a consumer as defined by § 13 BGB the Guarantee Terms and Conditions shall not apply with the exception of items 2.a) and 10.

2.

a) The Vendor warrants the freedom from defects of the item on handover in line with the current state of the art. For new items the duration of the statutory guarantee period shall be deemed to have been agreed. For second-hand items the duration of one year shall be deemed to have been agreed. The period shall commence on handover of the item in each case.

b) In each and every case the Purchaser shall prove that the defect was already present on handover of the item.

3. The Purchaser is entitled to have defects remedied (subsequent repair), or – at the Vendor's option – to delivery of a new part (delivery of a substitute). Damage caused by the continuing use of defective parts of the purchased item is excluded, as long as the Purchaser must have been able to ascertain this. Consequential damage relating to defects is also excluded.

The following shall apply to dealing with a guarantee claim:

- The Purchaser shall examine the good received forthwith and advise the Vendor of defects in detail and in writing, without delay following the ascertainment thereof by sending the guarantee claim form provided thereto, which is to be completed in full.
- The parts complained about as per no. 3 shall be sent by the enterprise to the Vendor postage paid.
- Parts sent on a carriage forward basis shall not be accepted by the Vendor. If a justified guarantee claim is established in this respect the Purchaser has a claim for refund against the Vendor.
- The parts shall be sent in a clean, undismantled and complete state, so that they may be verified in a technically appropriate manner with respect to function.

The following applies in detail with regard to the above:

- The part should be accompanied by a description of the defect.
- Complete sales packaging is to be verified with respect to its constituent parts prior to dispatch. Therefore, no complaints whatsoever shall be recognised if sales packaging is no longer complete.
- Parts subject to a subsequent repair or which have been replaced shall be covered by the guarantee as provided for by the purchase agreement until the guarantee period which applies to the purchased item lapses.
- The Purchaser may request compensation or the reimbursement of futile expenditure solely in cases of grossly negligent or deliberate breach of the duty to supply defect-free goods. They shall substantiate the claim for compensation and claim for reimbursement of expenditure with respect to the grounds and amount.

4. Should it not be possible to remedy the defect, further attempts to subsequently repair the item be unacceptable for the Purchaser or should the delivery of a substitute come to nothing a third time, instead of subsequent repair the Purchaser may declare they are rescinding the purchase contract or request a price reduction.

5. The guarantee obligations shall not be affected by the change in ownership with respect to the purchased item.

6. Guarantee obligations do not apply if the defect that has arisen has a causal relationship with the fact that:

- the Purchaser has not advised of a defect as per no. 3 and forthwith furnished an opportunity to carry out a subsequent repair or delivery of a substitute or
- the purchased item has previously undergone corrective maintenance, routine maintenance or servicing in a workshop not approved by the Vendor for maintenance – in this context an approved workshop is a professional workshop run by a master craftsman.
- the purchased item has been combined with other parts in such a way that does not correspond with its typical intended use or the purchased item has been altered or used in a manner that does not correspond with its typical intended use or
- the Purchaser has not complied with the rules and regulations concerning the assembly of parts or on handling, maintenance and care (e.g. instruction manual).

7. Natural wear and tear is excluded from the guarantee. The same applies to damage during transport.

8. Parts not deemed as constituting a guarantee claim shall be sent back to the Purchaser at their request on a carriage forward basis. This request is solely to be stated on the guarantee claim form.

The Vendor reserves the right to clearly mark parts not deemed as constituting a guarantee claim to prevent any misuse.

9. The aforementioned guarantee claims become time-barred once the guarantee period as per no. 2 has lapsed. For defects for which a claim has been lodged within the guarantee period, but which have not been remedied by the time this lapses is still covered by guarantee. The time barring for these defects shall be delayed until this point in time. In the circumstances of clause 2 the period however lapses three months after the Vendor has stated that the defect has been remedied or that there is no defect.

For the rest, our Terms and Conditions of Sale and Delivery shall apply.